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DIRECTOR

State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

DATE:

Behavioral Health Information Notice No.: 22-XXX

TO: California Alliance of Child and Family Services
California Association for Alcohol/Drug Educators
California Association of Alcohol & Drug Program Executives, Inc.
California Association of DUI Treatment Programs
California Association of Social Rehabilitation Agencies
California Consortium of Addiction Programs and Professionals
California Council of Community Behavioral Health Agencies
California Hospital Association
California Opioid Maintenance Providers
California State Association of Counties
Coalition of Alcohol and Drug Associations
County Behavioral Health Directors
County Behavioral Health Directors Association of California
County Drug & Alcohol Administrators

SUBJECT: County Mental Health Plan Obligations Related to Indian Health Care Providers

PURPOSE: This Behavioral Health Information Notice (BHIN)¹ is to remind county Mental Health Plans (MHPs) of their obligations to reimburse Indian Health Care Providers for the provision of Specialty Mental Health Services (SMHS). MHPs are obligated to reimburse Indian Health Care Providers even when the provider is not contracted with the MHP, and MHPs are obligated to contract with an adequate network of Indian Health Care Providers. This BHIN also provides guidance concerning the required reimbursement rates for Urban Indian Organizations, Tribal Federally Qualified Health Centers (Tribal FQHCs), Tribal 638 providers and Indian Health Service (IHS) facilities.

DEFINITIONS:

American Indian/Alaska Native (AI/AN) – Any person defined in 25 United States Code sections 1603(13), 1603(28), or section 1679(a), or who has been determined eligible as an Indian under 42 CFR section 136.12.

¹ Pursuant to Welfare and Institutions Code (W&I) section 14197.1(b), the Department of Health Care Services (DHCS) has the authority to implement these requirements via issuance of this BHIN in lieu of adopting regulations.

Indian Health Care Provider (IHCP) – Is a health care program operated by the IHS (“IHS facility”), an Indian Tribe, a Tribal Organization, or Urban Indian Organization (otherwise known as an I/T/U) as those terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. § 1603).

Indian Health Service (IHS) facilities – Facilities and/or health care programs administered and staffed by the federal Indian Health Service.

Tribal 638 Providers – Federally recognized Tribes or Tribal organizations that contract or compact with IHS to plan, conduct and administer one or more individual programs, functions, services or activities under [Public Law 93-638](#).

- Tribal 638 providers enrolled in Medi-Cal as an Indian Health Services-Memorandum of Agreement (IHS-MOA) provider must appear on the “[List of American Indian Health Program Providers](#)” set forth in [APL 17-020, Attachment 1](#) in order to qualify for reimbursement as a Tribal 638 Provider under this BHIN.
- Tribal 638 providers enrolled in Medi-Cal as a Tribal FQHC provider, are governed by and must enroll in Medi-Cal consistent with the Tribal FQHC criteria established in the California State Plan, the [Tribal FQHC section](#) of the Medi-Cal provider manual, and [APL 21-008](#).² Tribal 638 providers enrolled in Medi-Cal as a Tribal FQHC must appear on the “[List of Tribal Federally Qualified Health Center Providers](#)”, which is set forth on Attachment 2 to [APL 21-008](#).

Note: IHCPs cannot be designated as both an IHS-MOA and a Tribal FQHC provider in Medi-Cal.

Urban Indian Organizations (UIO) – A Nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 1653(a) of U.S. Code: Title 25, Chapter 18.

BACKGROUND:

The SMHS program is “carved-out” of the broader Medi-Cal program and operates under the authority of a waiver approved by the Centers for Medicare and Medicaid Services (CMS) under Section 1915(b) of the Social Security Act. As the single state Medicaid agency, DHCS is responsible for administering the Medi-Cal SMHS Waiver

² See [Supplement 6 to Attachment 4.19-B of the California Medicaid State Plan](#).

Program, which provides SMHS to Medi-Cal beneficiaries through MHPs. MHPs are required to provide or arrange for the provision of SMHS to beneficiaries in their counties that meet medical necessity criteria, consistent with the beneficiaries' mental health treatment needs and goals.

MHPs are considered Pre-Paid Inpatient Health Plans (PIHPs) for purposes of federal law through contracts with DHCS. All MHPs must comply with applicable requirements set forth in 42 CFR Part 438, including 42 CFR 438.14, which describes PIHP obligations in relation to IHCPs and AI/AN Medi-Cal beneficiaries. These duties are further incorporated into the DHCS/MHP contract.

MHPs are required to reimburse providers for the provision of SMHS. In addition, in accordance with 2011 Realignment and as part of the DHCS/MHP contract, MHPs generally³ take on full financial responsibility for obligations related to SMHS.⁴

In order to receive reimbursement from an MHP or the state for the provision of SMHS (whether or not the IHCP is contracted with the MHP), an IHCP must be enrolled as a Medi-Cal services provider, except for eligible out of state providers.⁵

POLICY:

The following are some key obligations of MHPs with respect to IHCP reimbursement and the rights of AI/AN Medi-Cal beneficiaries.

Medi-Cal AI/AN Beneficiaries Are Entitled to Receive Services from Out-of-Network IHCPs

All AI/AN Medi-Cal beneficiaries may choose to receive SMHS at any DHCS Medi-Cal certified IHCP, whether or not the IHCP has a current contract with the beneficiary's county of responsibility. MHPs must reimburse MHP-certified IHCPs for the provision of these services to AI/AN Medi-Cal beneficiaries, even if the MHP does not have a contract with the IHCP (42 CFR 438.14(b)(2),(4); MHP Contract, Exhibit A, Attachment 7, Section 5).

MHPs are not obligated to pay for SMHS provided to non-AI/AN beneficiaries by IHCPs that are not contracted with the MHP. MHPs may choose to contract with IHCPs for the

³ While there are state general fund obligations for certain Medi-Cal services and populations, MHPs are reimbursed for any expenditures incurred on the state's behalf through the CPE process.

⁴ W&I section 14714(a).

⁵ Pursuant to eligibility as outlined by [CMCS Informational Bulletin, December 14, 2016, Indian Provisions in the Final Medicaid and Children's Health Insurance Program Managed Care Regulations.](#)

care of non AI/AN Medi-Cal beneficiaries and, if they do, the IHCP reimbursement obligations described below apply.

MHPs Must Have Sufficient IHCPs Participating in Their Provider Networks

Each MHP must make a good faith effort to contract with all IHCPs located in the MHP's county and document those efforts, as provided for in [BHIN 20-012](#). All MHPs that enroll AI/AN Medi-Cal beneficiaries must comply with 42 CFR 438.14, including the requirement to demonstrate that there are sufficient IHCPs participating in the provider network to ensure timely access to services available under the contract from such providers for AI/AN enrollees who are eligible to receive services (42 CFR 438.14(b)(1); MHP Contract, Ex. A, Attachment 7, Section 5).

MHP Obligations to Reimburse IHCPs

1. Reimbursement of IHS-MOA and IHS Facilities

California's Medicaid State Plan sets forth specific criteria governing the reimbursement rate to which IHS/MOA providers and IHS facilities are entitled.⁶ If the service is provided by one of the health professionals identified in Supplement 6 to Attachment 4.19-B of California's Medicaid State Plan, and if the service does not exceed the three daily visit limit set forth in Supplement 6,⁷ the MHP must pay the IHS/MOA or IHS Facility the All-Inclusive Rate (AIR) published in the Federal Register, which is inapplicable to UIOs.⁸ If the service is not provided by one of the health professionals identified in Supplement 6 to Attachment 4.19-B of California's Medicaid State Plan, the MHP must reimburse the IHS/MOA at the amount it would receive if the services were provided under the State Plan's FFS payment methodology.

2. Reimbursement of Tribal FQHCs

Tribal FQHCs are a distinct and separate provider type from IHCPs that are enrolled as FQHCs. If the IHCP providing SMHS is a Tribal FQHC, California's Medicaid State Plan sets forth specific criteria governing the reimbursement rate to which Tribal FQHC

⁶ Relevant [State Plan pages](#). Relevant [Provider Manual sections](#).

⁷ The IHS MOA clinics may bill for up to three visits a day for one patient, if one is a medical visit, one is an ambulatory visit, and one is a mental health visit, as defined in Supplement 6 to Attachment 4.19-B. Relevant [State Plan pages](#).

⁸ The 2021 IHS all-inclusive rate is available in the [Federal Register](#), PIHPs are responsible for monitoring the Federal Register for future updates to the annual IHS all-inclusive rates published by IHS.

providers are entitled.⁹ If SMHS is provided by one of the health professionals identified in the Tribal FQHC section of the Medi-Cal Provider Manual, the MHP must pay the Tribal FQHC the Alternative Payment Methodology (APM) as specified in the State Plan.¹⁰ The APM is equivalent in amount to the AIR published in the Federal Register.¹¹ Tribal FQHCs must be reimbursed at the applicable rate for up to three visits per day in any combination of different visits in the following visit categories: medical, mental health, dental, and ambulatory. For example, Tribal FQHCs can be reimbursed for a combination of three different SMHS visits with a psychiatrist, a psychologist, and a social worker.¹² If the service is not provided by one of the health professionals identified in the Tribal FQHC section of the Medi-Cal Provider Manual, the MHP must reimburse the Tribal FQHC at the amount it would receive if the services were provided under the State Plan's FFS payment methodology.

3. Reimbursement of IHCPs Enrolled as FQHCs

When an IHCP is enrolled in Medi-Cal as a FQHC, but not as a Tribal FQHC, the MHP must reimburse an IHCP that is a participating provider with the MHP's provider network at the rate it negotiated with the IHCP. When an IHCP is enrolled in Medi-Cal as a FQHC, but is not a participating provider with the MHP's provider network, the MHP must reimburse the IHCP at the rate it would pay to a FQHC that is a contracted provider but is not an IHCP. The amount the MHP pays the IHCP that is enrolled as a FQHC is payment in full.

Reimbursement of UIOs

If the IHCP providing SMHS is an UIO and not enrolled in Medi-Cal as a FQHC, the MHP must reimburse the IHCP at the amount it would receive if the services were provided under the State Plan's FFS payment methodology.

4. Reimbursement for Beneficiaries with Medicare Part B Coverage

For beneficiaries with Medicare Part B coverage, the rates that an MHP must pay to either a Tribal FQHC, an IHS/MOA provider, or an IHS facility will vary in accordance with the AIR published in the Federal Register, and must account for any reimbursement the IHCP receives from Other Health Coverage, including Medicare.

⁹ Relevant [State Plan pages](#) (page 4).

¹⁰ Tribal FQHC [provider manual](#). Relevant [State Plan pages](#) (page 4).

¹¹ The 2021 IHS [all-inclusive rate](#). PIHPs are responsible for monitoring the Federal Register for future updates to the annual IHS all-inclusive rates published by IHS.

¹² See [APL 21-008](#)

Where the APM applies, MHPs must pay Tribal FQHC providers as follows for each visit:

- 1) For Medi-Cal beneficiaries with full Medicare coverage or Medicare Part B only, irrespective of Medicare Part D coverage, the required payment is the difference between the “APM Rate (Excluding Medicare)” and 80 percent of the Medicare FQHC prospective payment system rate.¹³
- 2) For Medi-Cal beneficiaries that do not have Medicare Coverage or have Medicare Part A only, irrespective of Medicare Part D coverage, the required payment is the “APM Rate (Excluding Medicare).”¹⁴

Processing and Paying IHCP Claims

To initiate payment, IHCPs must submit claims to the Medi-Cal beneficiary’s county of responsibility in accordance with that county’s claiming requirements. The rate on the claim should reflect the rate the IHCP should be paid for the service in accordance with the guidance above. If the rate claimed is incorrect for any reason, the amount due to the IHCP from the MHP shall be consistent with the guidance in this notice.

Claims from IHCPs must be paid in accordance with the timeliness requirements in 42 CFR §§ 438.14(b)(2)(iii), 447.45, and 447.46.

Examples

- An AI/AN Medi-Cal beneficiary whose county of responsibility is Orange County receives a covered SMHS from an IHS/MOA provider or an IHS facility located in Riverside County. The SMHS was provided by one of the health professionals identified in Supplement 6 to Attachment 4.19-B of California’s Medicaid State Plan and is the one allowed mental health visit or one allowed medical visit for the day. The IHS/MOA provider or IHS facility may submit a claim to Orange County and Orange County must reimburse the IHS/MOA or IHS facility at the IHS AIR even though the provider is not in the Orange County MHP provider network.
- An AI/AN Medi-Cal beneficiary whose county of responsibility is Siskiyou County receives a covered SMHS from a Tribal FQHC provider located in Humboldt County. The SMHS was provided by one of the health professionals identified in the Tribal FQHC section of the Medi-Cal provider

¹³ See 42 U.S.C. § 1395w-4(e)(6)(A)(ii).

¹⁴ See [Attachment 1](#) to [APL 21-008](#)

manual and is the third mental health visit for the day. The Tribal FQHC provider may submit a claim to Siskiyou County and Siskiyou County must reimburse the Tribal FQHC provider at the APM (equivalent in amount to the IHS AIR) even though the provider is not in the Siskiyou County MHP provider network.

- An AI/AN Medi-Cal beneficiary whose county of responsibility is San Luis Obispo County receives a covered SMHS from an UIO enrolled in Medi-Cal as a FQHC located in Santa Barbara County. The UIO may submit a claim to San Luis Obispo County using a rate negotiated between the MHP and the IHCP or, in the absence of a negotiated rate, the rate paid to a contracted non-IHCP FQHC. San Luis Obispo County must reimburse the UIO at the negotiated rate or the rate it would otherwise pay a non-IHCP FQHC.

Please e-mail any questions regarding this BHIN to the County Monitoring Section at CountySupport@dhcs.ca.gov.

Sincerely,

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